

settlement, I will surely proceed against you as above, and also in Chancery against your wife, as you represent her to have a separate estate.

Signed,

EDWIN S. TARR, *for Tarr & Blass.*"

Nothing in my judgment, could be more conclusive than this letter against the ground now taken by the plaintiff, that this furniture was sold upon the credit of Mrs. Williams' separate estate, and upon an engagement that it should be paid out of it. On the contrary, the threat to proceed in Chancery against the wife is founded upon information derived from the husband that his wife had a separate estate, which did not otherwise appear to be known to the complainants. The letter states distinctly, that the credit was given to the husband upon representations made by him in reference to his own property, and for which they (the representations) being, I presume, ascertained to be false, he threatens him with a criminal prosecution. Unquestionably this is not the language these plaintiffs would have employed if the goods had been sold upon the credit of the separate estate of the wife as is now urged.

I feel, therefore, a strong conviction, that the account which the answer gives of this transaction is the true one, notwithstanding the proof of Elijah Walton, returned under one of the commissions. He is the only witness who says any thing in opposition to the answer, and he is not only not supported by corroborating circumstances, but the circumstance renders the truth of this answer almost, if not entirely, absolutely certain.

Being of opinion, then, that I may place the decree about to be pronounced, dismissing the bill upon the ground that its allegations are not merely unsupported by proof, but disproved by the pleadings and evidence, I am relieved from the necessity of considering the effect of the marriage settlement of the 11th of June, 1844.

But looking at the trusts of that instrument, it might, perhaps, be doubted whether Mrs. Williams had the power to charge the *capital* of her separate estate with the payment of the claim of the complainants. She has, no doubt, the power to receive and apply, at her pleasure, the rents, issues and profits thereof.